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BOARD OF ADJUSTMENT STAFF REPORT REQUEST FOR VARIANCE

Staff Report

Date: August 3, 2026
From: Kevin Kuchenbecker
Planning, Zoning & Historic Preservation Officer
RE: Request for Variance

APPLICANT(S): Martin Reynolds

PURPOSE: Request for Variance

ADDRESS: 199 Cliff Street

LEGAL DESCRIPTION: Lots 27, 28 and 30 and vacated McDonald Street of Pecks Gardens Subdivision, located in the NE ¼ and the SE ¼ Section 27, T5N, R3E, B.H.M. City of Deadwood, Lawrence County, South Dakota

FILE STATUS: All legal obligations have been completed.

ZONE: R1 - Residential

STAFF FINDINGS:

Surrounding Zoning:

North: R1 – Residential
South: CH – Commercial Highway
East: R1 – Residential
West: R1 – Residential

Surrounding Land Uses:

Residences
Comfort Inn; creek
Residences
Super 8 Hotel; highway

SUMMARY OF REQUEST

The applicant has applied for a variance to Ordinance Chapter 17.24.040(A)(2) Area and Bulk Requirements. (Minimum lot area for all new lots: five thousand (5,000) square feet).

FACTUAL INFORMATION

1. The property is currently zoned R1 - Residential.
2. The property is partially located within a flood zone, with the outer edge of the property located in a floodway.
3. The area is characterized by single-family homes along Peck Street and a mix of single-family homes and businesses along Cliff Street.

STAFF DISCUSSION

This agenda item was continued from the July 20, 2026, Board of Adjustment meeting.

The applicants have submitted a Request for a Variance to Ordinance 17.24.040 (A)(2) – Area and Bulk Requirements. (Minimum lot area for all new lots: five thousand (5,000) square feet). According to the application, the boundary lines for five (5) new lots placed on the existing Lots 27, 28 and 30 will measure between 3,013 and 3,453 square feet each. A variance from the required five thousand (5,000) minimum lot area for all new lots is requested. The modest lot size is intended to allow for modest, and affordable, single-family housing.

COMPLIANCE:

1. The Zoning Office provided notice identifying the applicant, describing the project and its location, and giving the scheduled date of the public hearing in accordance with Section 11-4-4.4.
2. A sign was posted on the property for which the requests were filed.
3. Notice of the time and place was published in the designated newspaper of the City of Deadwood.

GENERAL USE STANDARDS FOR VARIANCE REQUESTS:

In reviewing any application under the authority of this chapter and as a further guide to its decision upon the facts of the case, the Commission(s) shall consider, among other things, the following facts:

1. A variance may be appropriate where, by reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional topographic conditions or other extraordinary conditions on a piece of property, the strict application of any regulation enacted under this title

would result in peculiar, exceptional, and undue hardship on the owner of such property. The aforesaid circumstances or conditions shall be set forth in the findings of the board.

To develop the property with affordable housing, the property owner is requesting lot sizes that meet the minimum lot area for nonconforming lots of record, which equate to two thousand five hundred (2,500) square feet.

The request for a variance was denied by the Planning and Zoning Commission on July 15, 2026, for a lack of undue hardship. While the applicant has acknowledged the city's need and strives to provide affordable housing, this likely does not make it an undue hardship.

2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which it is requested.

The subject property is in zoning district R1 – Residential, and single-family homes are allowed within this zone as a use by right.

3. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.

The proposed lots will measure approximately thirty-three (33) feet wide and one hundred (100) feet deep. This will allow for a proposed five (5) modestly sized single-family homes with garages to be built on the existing lot. The proposed configuration of the homes will allow for three (3) homes to face Peck Street and two (2) homes to face Cliff Street.

4. The granting of any variance is in harmony with the general purposes and intent of this title and will not be injurious to the neighborhood, and/or detrimental to the public welfare, or in conflict with the established policies of the city.

The granting of this variance is not anticipated to be injurious and/or detrimental to public welfare; however, public comments have included claims that the request will be injurious to public welfare due to aesthetics, traffic, parking and possible encroachment within the flood plain.

5. There must be proof of practical difficulty, which may be based upon sufficiently documented economic factors, but such proof shall not be based solely upon or limited to such economic factors. Furthermore, the hardship complained of cannot be self-created, nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this title; it must be

suffered directly by the property in question; and evidence of a variance granted under similar circumstances shall not be considered.

The current size and configuration of the existing lot would allow for three (3) traditional new lots. The proposed configuration will provide for an additional two (2) lots to be added. In this case the claim of economic hardship becomes self-created and was established by purchase of the property with or without knowledge of the restrictions.

6. That the proposed variance will not impair an adequate supply of light and air to adjacent properties, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.

The proposed variance will not impair light and air to adjacent properties, nor will it significantly increase the congestion in the public streets. Additionally, staff recognize a portion of the Cliff Street lot(s) are in the flood plain and floodway; however, prior to any construction, the applicant is aware that a floodplain development permit would need to be obtained. Staff recommend this be a condition of approval of said variance, plat approval and building permit.

7. A fee, as adopted by resolution, due and payable prior to the public hearing, shall be paid to the zoning administrator as agent for the board to cover the costs of notices and other expenses incidental to the hearing.

The applicant paid an application fee at the time the Request for Variance was submitted to the zoning administrator.

8. The applicant has proven that he or she is the owner of the property or is his or her officially designated agent and has presented proof thereof.

Per the Lawrence County online database, the applicant is the owner of the subject property.

CONDITIONS GOVERNING APPLICATIONS AND PROVISIONS:

1. A variance shall be null and void two (2) years from the date it is granted unless completion or substantial construction has taken place. The Board of Adjustment may extend the variance for an additional period not to exceed one year upon the receipt of a written request from the applicant demonstrating good cause for the delay.
2. If upon review by the zoning administrator, a violation of any condition imposed in approval of a variance is found, the administrator shall inform the applicant by registered mail of the violation and shall require

compliance within sixty (60) days, or the administrator will take action to revoke the permit. The administrator's letter, constituting notice of intent to revoke variance may be appealed to the board of adjustment within thirty (30) days of its mailing. The Board of Adjustment shall consider the appeal and may affirm, reverse, or modify the administrators notice of intent to revoke. The applicant must comply with the board of adjustment's order on appeal of notice of intent to revoke variance within thirty (30) days of the board's decision.

If approved, staff recommendations for stipulation(s):

1. Required permits and inspections will be completed to ensure compliance with building codes.
2. A Flood Plain Development Permit be obtained prior to any issuance of building permit along Cliff Street lot(s).

ACTION REQUIRED:

1. Approval/Denial by Deadwood Board of Adjustment (Denied by Planning and Zoning Commission July 15, 2026. Continued by Board of Adjustment July 20, 2026).